IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CMPMO No. 311 of 2006.

Date of Decision: 6th November, 2006.

Jagdish Chand and others. …. Petitioners.

Versus

State of H.P. Respondent.

Coram

The Hon'ble Mr. Justice V.K. Gupta, C.J.

Whether approved for reporting[2]?

For the Petitioner: Mr. S.D. Vasudeva, Advocate.

For the respondent: Mr. M.S. Chandel, Advocate General, with Mr. P.M.Negi, Dy. Advocate General.

V.K. Gupta, C.J. (Oral).

The learned trial Court rejected the application filed under Order 23 Rule 1 of the Code of Civil Procedure for seeking permission to withdraw the suit with liberty to file a fresh suit on the same cause of action on the ground that the judgment of the Supreme Court of which a mention was made in the application was not even shown to the learned trial Court nor its reference was made before it. Today the learned counsel for the petitioners has shown to me a judgment of the Supreme Court in the case of

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Whether reporters of the Local Papers are allowed to see the Judgment?

Kanshi Ram and another vs. *Lachhman (Dead) through L.Rs and others*, reported in 2001 (2) Cur.L.J (HP) 224, which I have carefully read. In this judgment, the issue involved was with respect to the law of limitation concerning a suit filed by the successors of a mortgagor for redemption of mortgage and for recovery of possession. This judgment is not applicable at all to the present case because the suit filed by the petitioners-plaintiffs was neither for redemption of mortgage nor for possession. On the other hand, the petitioners had filed a suit for declaration to the effect that they had become owners in possession being mortgagees of the land in question.

The petition is dismissed.

CMP No.621 of 2006.

In view of the dismissal of the main petition, this application shall also stand dismissed.

6th November, 2006. (V.K. Gupta), C.J.
(tr)